IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 848 OF 2006

IN

CHAMBER SUMMONS NO. 1062 OF 2005

IN

SUIT NO. 5757 OF 1998

Chunilal Punshi Satra & Others..... Appellants.

Versus

Smt.Hemlata Keshavji Gala & Anr.... Respondents.

Mr.Milind Vasudeo a/w Mr.A.M.Puranik i/by M/s.Puranik & Co., for the Appellants.

Mr.C. S. Balsara a/w Mr. Nehal Gada & Mrs.Yogini Gada i/by M/s.Harakchand & Co. for the Respondents.

CORAM : R. M. LODHA, and
S. A. BOBDE, JJ.

DATED : 29TH NOVEMBER, 2006.

P.C.:

We heard Mr. Milind Vasudeo, learned Counsel for the appellants and Mr. Chirag Balsara, learned Counsel for the respondents.

2. It is not in dispute that parties are co-owners in the subject shop having equal share. It is also not in dispute that pursuant to the impugned order dated 28th September, 2005, the appellants have surrendered

possession of the subject shop as Court Receiver's agent and now since 21st December, 2005 the respondents have been appointed as the agent of the Court Receiver. The learned Counsel for the respondents submits that the respondents have been paying royalty at the rate of Rs.20,000/- per month since 21st December, 2005. Taking this fact into consideration and the valuation of the property, the fixation of the royalty at the rate of Rs.20,000/- per month does not seem to be excessive warranting interference by us in this appeal.

3. Appeal is dismissed in limine.

4. As regard the arrears of royalty payable by the appellants, we grant liberty to the appellants to furnish bank guarantee in the sum of Rs.10,00,000/- from any nationalised bank to the satisfaction of the Court Receiver, within four weeks from today, failing which the Court Receiver shall take appropriate steps in recovering the due amount towards the due royalty from the appellants.

Sd/-

(R. M. LODHA, J.)

Sd/-

(S. A. BOBDE, J.)